

Serial No.: 10/801,826
Patent

REMARKS

Claims 1 - 32 are pending, with claims 3, 5 - 15, 18, 20, 21, and 23 - 32 having been withdrawn from consideration as being drawn to a non-elected Species. Contrary to the Examiner's assertion that the Election was made without traverse and that there is "no allowable generic or linking claim", it should be noted that prosecution has not been closed, and thus it is premature to state that there is "no allowable generic or linking claim". Moreover, because claims 9 - 13, 15 and 18 depend from claim 1 (directly or indirectly), claim 1 is a linking claim to claims 9 - 13, 15 and 18. Thus, in the event claim 1 is eventually found to be allowable, these claims by statute include all the limitations of claim 1 and thus would then have to be rejoined by the Examiner. Thus, for purposes of clarifying the record, the election should be characterized as being "with traverse" rather than - - without traverse - - .

The Abstract of the Disclosure stands objected to for the reasons stated at page 2 of the Office Action dated 06/14/2007. Reconsideration of this objection is respectfully requested in view of the Abstract of the Disclosure having been amended above.

Claims 1, 2, 4, 16, 17 and 19 stand rejected under 35 U.S.C. 102(b) as being anticipated by JP Publication No. 09-054977 to Katayama. Reconsideration of this rejection is respectfully requested. In Katayama there is nothing that corresponds to the aperture as claimed in claim 1 of the present invention, which requires "an aperture that is an open space of a specified size formed in a substrate". Although there is an aperture in a film that is on a substrate in Katayama, there is no "aperture that is an open space of a specified size formed in a substrate" (emphasis added) as is claimed in the present invention. As can be seen from the side views shown in the drawings of Katayama, the substrates 21, 28, 34, etc. are all continuous with no open space formed in the substrate as is claimed.

Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Katayama (as applied to claim 16 in the Office Action dated June 14, 2007) in view of patent publication US-2001/0036142 to Kadowaki et al., patent publication US-2003/0053395 to Kadowaki et al., or patent publication US-2002/0181343 to Hayashi et al. Reconsideration of this rejection is

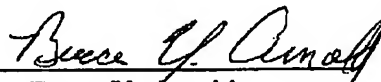
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respectfully requested. As noted above, claim 16 is not anticipated by JP Publication No. 09-054977 to Katayama. As none of patent publications US-2001/0036142 to Kadowaki et al., US-2003/0053395 to Kadowaki et al., or US-2002/0181343 to Hayashi et al. taken separately or in combination make up for the deficiency of claim 1 not being anticipated by JP Publication No. 09-054977 to Katayama as discussed above, the rejection of claim 22 is improper and should be withdrawn (since claim 22 indirectly depends from claim 1 and thus includes all the limitations of claim 1).

Having amended the Abstract of the Disclosure to fully comply with MPEP §608.01(b), having pointed out that base claim 1 is not anticipated by Katayama ('977), and having pointed out that none of Kadowaki et al. ('142), Kadowaki et al. ('395), or Hayashi et al. ('343) when considered individually or in combination make up for the deficiencies of Katayama as discussed above regarding the rejection of claim 1, it is respectfully submitted that, unless more pertinent prior art is found that makes claim 1 unpatentable, claims 9 - 13, 15 and 18 should be rejoined by the Examiner and an early Notice of Allowability provided.

Respectfully submitted,

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